A.   REMARKS

No amendments have been made to this application with the filing of this RCE. Hence, Claims 1-36, 39 and 41 are pending in this application. All issues raised in the Final Office Action mailed August 16, 2005 are addressed hereinafter. Consideration of the IDS filed on May 16, 2005 and the withdrawal of the rejection of Claims 1-41 under 35 U.S.C. § 112, second paragraph note in the Final Office Action is gratefully acknowledged.

REJECTION OF CLAIMS 1-36, 39 AND 41 UNDER 35 U.S.C. § 103(a)

In the Final Office Action, Claims 1-36, 39 and 41 were rejected under 35 U.S.C. § 103(a) as being unpatentable over *Crooks et al.*, U.S. Patent No. 5,930,773 (hereinafter *"Crooks '773"*) in view of *Crooks et al.*, U.S. Patent No. 5,943,656 (hereinafter *"Crooks `656"*).  It is respectfully submitted that Claims 1-36, 39 and 41 are patentable over *Crooks `773* and *Crooks `656* for at least the reasons provided hereinafter.

CLAIM 1

Claim 1 is directed to a method for determining an amount to be billed to a customer for the use of resources. Claim 1 recites:

> "determining usage data that indicates usage, by the customer during a specified period of time, of a set of one or more resources assigned to the customer, wherein over time, resources may be de-allocated from the set of one or more resources assigned to the customer and additional resources may be allocated to the set of one or more resources assigned to the customer from a plurality of resources; and
> in a computer system determining the amount to be billed to the customer based upon the usage data and value data that specifies a number of service units that each resource from the set of one or more resources is capable of providing per unit time."

It is respectfully submitted that Claim 1 is patentable over *Crooks '773* and *Crooks '656* because Claim 1 recites one or more limitations that are not taught or suggested by *Crooks '773* and *Crooks '656*, considered alone or in combination. For example, it is respectfully submitted that the Claim 1 limitation "determining usage data that indicates usage, by the customer during a specified period of time, of a set of one or more resources assigned to the customer, wherein over time, resources may be de-allocated from the set of one or more resources assigned to the customer and additional resources may be allocated to the set of one or more resources assigned to the customer from a plurality of resources," is not taught or suggested by *Crooks '773* or *Crooks '656*. In the Final Office Action, *Crooks '773* was relied upon for teaching this limitation.

Crooks '773 describes a utility resource management system that receives resource usage information that indicates consumption of resources by customers. The utility resource management system processes the resource usage information and generates computer-viewable data that indicates a customer's consumption of one or more resources. The computer-viewable data may be accessed by customers through interface devices and presented in different formats, for example, in graphical, numerical or tabulated reports.

It is respectfully submitted that *Crooks '773* does not teach or suggest determining usage data for a set of resources assigned to a customer, where "over time, resources may be de-allocated from the set of one or more resources assigned to the customer and additional resources may be allocated to the set of one or more resources assigned to the customer from a plurality of resources." The resources described in *Crooks '773* are utilities, such as electricity, gas, water, etc., and there is no mention of de-allocating existing resources from a set of resources assigned to a customer or allocating additional resources to the set of resources assigned to the customer.

Crooks `773 describes that customers can view utility usage data in different formats and views, but there is no mention or suggestion of changing the resources in the set of resources assigned to a customer, as recited in Claim 1.

The Final Office Action asserted that the de-allocation of resources currently assigned to a customer and the allocation of additional resources to the customer is taught by the text at Col. 8, lines 50-57 of *Crooks `773*. This portion of *Crooks `773* describes that the utility resource management system may include an audit process to scrutinize the resource usage information to ensure that the information utilized to generate the computer-viewable data is within acceptable tolerance levels. The text at Col. 7, lines 32-49 provides more details about the audit process:

> In one aspect of the invention, an audit process is provided at step 240 (FIG. 5). The audit process is preferably implemented in a suitable software application which is resident upon the hardware platform defined by host computer 22. Audit process 240 includes a definition step, at step 250, wherein at least one, and preferably more pre-determined tolerance parameters are defined. At step 260, the resource usage information which is received from resource provider 32 is checked against the pre-determined tolerance parameter(s) for determining whether the information satisfies such parameter(s). If the resource usage information does not satisfy the pre-determined tolerance parameter, then, in accordance with one aspect of the invention, the information from the resource provider is flagged for remedial processing, either manually or electronically, which includes error checking the information.

Also, at Col. 9, lines 22-25, "[f]urther still, a system is provided which can tolerance check the resource usage information received from each of the resource providers to ensure accurate reporting thereof to the customer."

As described above, the audit process allows a user to determine whether reported usage information is within specified tolerance parameters. Applicant respectfully submits that being able to determine whether reported usage information is within specified tolerance parameters at most suggests that the values of usage information may increase or decrease over time, reflecting a change in the usage of resources. Even if a change in the usage of resources was construed to

be attributable to use of fewer or more resources, this does not necessarily mean that the resources allocated to any particular customer changes, since a decrease in resources could be attributable to a departing customer and an increase in resources could be attributable to a new customer. There is no explicit teaching or suggestion in *Crooks '773* of de-allocating existing resources from a set of resources assigned to a customer or allocating additional resources to the set of resources assigned to the customer. Given the existence of other explanations for changes in resource usage and the lack of an explicit teaching or suggestion in *Crooks '773* of de-allocating existing resources from a set of resources assigned to a customer or allocating additional resources to the set of resources assigned to the customer, it is respectfully submitted that the Claim 1 limitation "determining usage data that indicates usage, by the customer during a specified period of time, of a set of one or more resources assigned to the customer, wherein over time, resources may be de-allocated from the set of one or more resources assigned to the customer and additional resources may be allocated to the set of one or more resources assigned to the customer from a plurality of resources," is not taught or suggested by *Crooks '773*.

It is also respectfully submitted that the Claim 1 limitation "in a computer system determining the amount to be billed to the customer based upon the usage data and value data that specifies a number of service units that each resource from the set of one or more resources is capable of providing per unit time" is not taught or suggested by *Crooks '773* or *Crooks '656*. In the Final Office Action, *Crooks '656* was relied upon for teaching this limitation.

Crooks '656 describes a system for providing computerized consolidation of bills. This includes consolidating individual amounts payable to different billing entities. There is no teaching or suggestion in *Crooks '656*, however, of determining an amount to bill a customer based upon usage of resources by the customer and "value data that specifies a number of service

units that each resource from the set of one or more resources is capable of providing per unit time," as recited in Claim 1.

In view of the foregoing, it is respectfully submitted that Claim 1 recites one or more limitations that are not in any way taught or suggested by *Crooks '773* or *Crooks '656* and that Claim 1 is therefore patentable over *Crooks '773* and *Crooks '656*.

CLAIMS 2-18

Claims 2-18 all depend from Claim 1 and include all of the limitations of Claim 1. It is therefore respectfully submitted that Claims 2-18 are patentable over *Crooks '773* and *Crooks '656* for at least the reasons set forth herein with respect to Claim 1. Furthermore, it is respectfully submitted that Claims 2-18 recite additional limitations that independently render them patentable over *Crooks '773* and *Crooks '656*.

CLAIMS 19-36

Claims 19-36 recite limitations similar to Claim 1-18, except in the context of computer-readable media. It is therefore respectfully submitted that Claims 19-36 are patentable over *Crooks '773* and *Crooks '656* for at least the reasons set forth herein with respect to Claims 1-18.

CLAIMS 39 AND 41

Claims 39 and 41 recite limitations similar to Claim 1, except in the context of apparatuses. It is therefore respectfully submitted that Claims 39 and 41 are patentable over *Crooks '773* and *Crooks '656* for at least the reasons set forth herein with respect to Claim 1.

In view of the foregoing, it is respectfully submitted that Claims 1-36, 39 and 41 are patentable over *Crooks '773* and *Crooks '656*.

CONCLUSION

It is respectfully submitted that all of the pending claims are in condition for allowance and the issuance of a notice of allowance is respectfully requested.

If any applicable fee is missing or insufficient, the Commissioner is hereby authorized to charge any applicable fees and to credit any overpayments to our Deposit Account No. 50-1302.

The Examiner is invited to contact the undersigned by telephone if the Examiner believes that such contact would be helpful in furthering the prosecution of this application.

Respectfully submitted,

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CERTIFICATE OF MAILING

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: **Mail Stop RCE**, Commissioner for Patents, P. O. Box 1450, Alexandria, VA 22313-1450

on October 17, 2005 by _____
Angelica Maloney